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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June 1998

Before

THE HON'BLE MR.JUSTICE CHANDRASHEKARAIAH

W.P.No: 28725/97

Between:

Sri. G. L. Jagadish,
s/o. G.N.Lingaiah,
R/o. No.49, Basaweshwara Layout,
Vijayanagar,
Bangalore - 40.

... Petitioner;

(B^Y Sri. B.Veerabhadrappa)

AND:

1. The Corporation of City of
Bangalore, by its Commissioner,
J.C. Road, Bangalore.

2. The Assistant Executive Engineer,
Chandra layout, Sub-Division,
BCC, Bangalore.

... Respondents;

(By Sri. Muniyappa)

This petition is filed under Arts.226 and 227 of the
Constitution praying to quash the order dt.10-9-97 & 30-9-97.
This petition coming on for preliminary hearing in B
group this day the Court made the following:

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O R D E R

18-6-1998

The petitioner after obtaining necessary licence and after getting the plan sanctioned has put up the construction on site No.49 situate at Basaveshwara layout (Chandra layout) in K.P.Agrahara Kasaba Hobli, Bangalore North taluk, Bangalore. The Corporation passed a provisional order dated 10-9-97 directing the petitioner to show cause why action should not be taken to remove the unauthorised construction on the ground the construction put up by the petitioner is unauthorised.

2. According to the learned counsel for the petitioner the provisional order was received by him on 29-9-1997. It is submitted that immediately after receipt of the said order, the petitioner appeared and requested for time, but the Officer of the respondent Corporation has passed a final order on 30-9-1997 under Sec.321(3) of the KMC Act. This order is under challenge on the ground that no opportunity was afforded to the petitioner to file objections. The statement made by the petitioner that he received the provisional order on 29-9-97 is not disputed by the Corporation by filing any statement of objections. If that is so, the Corporation was not right in passing the order on

with out considering request for time.

the very next date that is 30-9-97. Therefore, in my opinion the final order passed by the Corporation is liable to be quashed as it has been passed in violation of principles of natural justice.

3. Accordingly, writ petition is allowed. The impugned order dated 30-9-1997 (Annexure-D) passed under Sec.321(3) of the Act, is quashed and the matter is remitted to the 2nd respondent to dispose of the matter afresh after due notice to the petitioner.



Sd/-
JUDGE

Hsf.